

LEGISLATURE OF NEBRASKA

ONE HUNDRED FIRST LEGISLATURE

FIRST SESSION

LEGISLATIVE BILL 428

Introduced by Christensen, 44.

Read first time January 20, 2009

Committee: Banking, Commerce and Insurance

A BILL

1 FOR AN ACT relating to deposit and investment of public funds;
2 to amend sections 2-4214, 14-556, 15-847, 15-849,
3 16-713, 16-715, 16-716, 17-607, 17-720, 30-3209, 77-2305,
4 77-2318, 77-2326.04, 77-2340, 77-2344, 77-2345, 77-2352,
5 77-2355, 77-2362, 77-2375, 77-2385, 77-2388, 77-2389,
6 77-2395, 77-2398, 77-23,100, 77-23,101, 77-23,102, and
7 77-23,105, Reissue Revised Statutes of Nebraska, and
8 sections 77-2365.01, 77-2365.02, and 77-2387, Revised
9 Statutes Cumulative Supplement, 2008; to authorize the
10 deposit of public funds in credit unions as prescribed;
11 to clarify Federal Deposit Insurance Corporation and
12 National Credit Union Administration coverage; to
13 harmonize provisions; to provide a duty for the Revisor
14 of Statutes; to repeal the original sections; and to

LB 428

LB 428

1 declare an emergency.

2 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 2-4214, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 2-4214 The corporation shall have the following duties:

4 (1) To invest any funds not needed for immediate
5 disbursement, including any funds held in reserve, in direct and
6 general obligations of or obligations fully and unconditionally
7 guaranteed by the United States of America; obligations issued by
8 agencies of the United States of America; obligations of this state
9 or of any political subdivision except obligations of sanitary
10 and improvement districts organized under Chapter 31, article
11 7; certificates of deposit of banks whose deposits are insured
12 or guaranteed by the Federal Deposit Insurance Corporation or
13 National Credit Union Administration or collateralized by deposit
14 of securities with the secretary-treasurer of the corporation,
15 as, and to the extent not covered by insurance or guarantee,
16 with securities which are eligible for securing the deposits of
17 the state or counties, school districts, cities, or villages of
18 the state; certificates of deposit of capital stock financial
19 institutions as provided by section 77-2366; certificates of
20 deposit of qualifying mutual financial institutions as provided by
21 section 77-2365.01; repurchase agreements which are fully secured
22 by any of such securities or obligations which may be unsecured
23 and unrated, including investment agreements, of any corporation,
24 national bank, capital stock financial institution, qualifying
25 mutual financial institution, bankholding company, insurance

1 company, or trust company which has outstanding debt obligations
2 which are rated by a nationally recognized rating agency in one
3 of the three highest rating categories established by such rating
4 agency; or any obligations or securities which may from time to
5 time be legally purchased by governmental subdivisions of this
6 state pursuant to subsection (1) of section 77-2341;

7 (2) To collect fees and charges the corporation
8 determines to be reasonable in connection with its loans, advances,
9 insurance commitments, and servicing;

10 (3) To cooperate with and exchange services, personnel,
11 and information with any federal, state, or local governmental
12 agencies;

13 (4) To sell, assign, or otherwise dispose of at public or
14 private sale, with or without public bidding, any mortgage or other
15 obligations held by the corporation; and

16 (5) To do any act necessary or convenient to the exercise
17 of the powers granted by the Conservation Corporation Act or
18 reasonably implied from it.

19 Sec. 2. Section 14-556, Reissue Revised Statutes of
20 Nebraska, is amended to read:

21 14-556 (1) The city treasurer shall place all funds of
22 the city, as the same accrue, on deposit in such banks, capital
23 stock financial institutions, or qualifying mutual financial
24 institutions within the city as shall agree to pay the highest
25 rate of interest for the use of such funds so deposited. The city

1 council is hereby directed to advertise for bids for rates for the
2 deposit of such funds as is hereby contemplated.

3 (2) The banks, capital stock financial institutions, or
4 qualifying mutual financial institutions referred to in subsection
5 (1) of this section, so selected, shall:

6 (a) Give bond to the city for the safekeeping of such
7 funds, and such city shall not have on deposit in any bank,
8 capital stock financial institution, or qualifying mutual financial
9 institution giving a guaranty bond more than the amount insured
10 or guaranteed by the Federal Deposit Insurance Corporation or
11 National Credit Union Administration plus the maximum amount of the
12 bond given by the bank, capital stock financial institution,
13 or qualifying mutual financial institution or in any bank,
14 capital stock financial institution, or qualifying mutual financial
15 institution giving a personal bond more than the amount insured
16 or guaranteed by the Federal Deposit Insurance Corporation or
17 National Credit Union Administration plus one-half of the amount
18 of the bond of the bank, capital stock financial institution,
19 or qualifying mutual financial institution. All bonds of such
20 banks, capital stock financial institutions, or qualifying mutual
21 financial institutions shall be deposited with and held by the city
22 treasurer; or

23 (b) Give security as provided in the Public Funds Deposit
24 Security Act.

25 (3) The fact that a stockholder, director, or other

1 officer of such bank, capital stock financial institution, or
2 qualifying mutual financial institution is also serving as mayor,
3 as a member of the city council, as a member of a board of
4 public works, or as any other officer of such municipality shall
5 not disqualify such bank, capital stock financial institution, or
6 qualifying mutual financial institution from acting as a depository
7 for such municipal funds.

8 (4) Section 77-2366 shall apply to deposits in capital
9 stock financial institutions.

10 (5) Section 77-2365.01 shall apply to deposits in
11 qualifying mutual financial institutions.

12 Sec. 3. Section 15-847, Reissue Revised Statutes of
13 Nebraska, is amended to read:

14 15-847 In lieu of the bond required by section 15-846,
15 any bank, capital stock financial institution, or qualifying mutual
16 financial institution making application to become a depository may
17 give security as provided in the Public Funds Deposit Security
18 Act to the city treasurer. The penal sum of such bond or the sum
19 of such security may be reduced in the amount of such deposit
20 insured or guaranteed by the Federal Deposit Insurance Corporation
21 or National Credit Union Administration. Section 77-2366 shall
22 apply to deposits in capital stock financial institutions. Section
23 77-2365.01 shall apply to deposits in qualifying mutual financial
24 institutions.

25 Sec. 4. Section 15-849, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2 15-849 The city treasurer may purchase certificates of
3 deposit from and make time deposits in banks, capital stock
4 financial institutions, or qualifying mutual financial institutions
5 selected as depositories of city funds pursuant to sections 15-846
6 to 15-848. The certificates of deposit purchased and time deposits
7 made shall bear interest and shall be secured as prescribed
8 in such sections. The penal sum of such bond or the sum
9 of such security shall be reduced in the amount of the time
10 deposit or certificate of deposit insured or guaranteed by the
11 Federal Deposit Insurance Corporation or National Credit Union
12 Administration. Section 77-2366 shall apply to deposits in capital
13 stock financial institutions. Section 77-2365.01 shall apply to
14 deposits in qualifying mutual financial institutions.

15 Sec. 5. Section 16-713, Reissue Revised Statutes of
16 Nebraska, is amended to read:

17 16-713 The city treasurer may, upon resolution of the
18 mayor and council authorizing the same, purchase certificates
19 of deposit from and make time deposits in banks, capital stock
20 financial institutions, or qualifying mutual financial institutions
21 selected as depositories of city funds under the provisions of
22 sections 16-712, 16-714, and 16-715. The certificates of deposit
23 purchased and time deposits made shall bear interest and shall be
24 secured as set forth in sections 16-714 and 16-715, except that
25 the penal sum of such bond or the sum of such security shall be

1 reduced in the amount of the time deposit or certificate of deposit
2 insured or guaranteed by the Federal Deposit Insurance Corporation
3 or National Credit Union Administration. Section 77-2366 shall
4 apply to deposits in capital stock financial institutions. Section
5 77-2365.01 shall apply to deposits in qualifying mutual financial
6 institutions.

7 Sec. 6. Section 16-715, Reissue Revised Statutes of
8 Nebraska, is amended to read:

9 16-715 In lieu of the bond required by section 16-714,
10 any bank, capital stock financial institution, or qualifying mutual
11 financial institution making application to become a depository may
12 give security as provided in the Public Funds Deposit Security
13 Act to the city clerk. The penal sum of such bond shall be
14 equal to or greater than the amount of the deposit in excess
15 of that portion of such deposit insured or guaranteed by the
16 Federal Deposit Insurance Corporation or National Credit Union
17 Administration. Section 77-2366 shall apply to deposits in capital
18 stock financial institutions. Section 77-2365.01 shall apply to
19 deposits in qualifying mutual financial institutions.

20 Sec. 7. Section 16-716, Reissue Revised Statutes of
21 Nebraska, is amended to read:

22 16-716 The treasurer shall not have on deposit in any
23 bank, capital stock financial institution, or qualifying mutual
24 financial institution at any time more than the amount insured
25 or guaranteed by the Federal Deposit Insurance Corporation or

1 National Credit Union Administration plus the maximum amount of the
2 bond given by the bank, capital stock financial institution, or
3 qualifying mutual financial institution if the bank, capital stock
4 financial institution, or qualifying mutual financial institution
5 gives a surety bond, nor in any bank, capital stock financial
6 institution, or qualifying mutual financial institution giving
7 a personal bond, more than the amount insured or guaranteed
8 by the Federal Deposit Insurance Corporation or National Credit
9 Union Administration plus one-half of the amount of the bond
10 of such bank, capital stock financial institution, or qualifying
11 mutual financial institution, and the amount so on deposit any
12 time with any such bank, capital stock financial institution, or
13 qualifying mutual financial institution shall not in either case
14 exceed the amount insured or guaranteed by the Federal Deposit
15 Insurance Corporation or National Credit Union Administration plus
16 the paid-up capital stock and surplus of such bank, capital stock
17 financial institution, or qualifying mutual financial institution.

18 The city treasurer shall not be liable for any loss
19 sustained by reason of the failure of any such bonded depository
20 whose bond has been duly approved by the mayor as provided in
21 section 16-714 or which has, in lieu of a surety bond, given
22 security as provided in section 16-715.

23 Sec. 8. Section 17-607, Reissue Revised Statutes of
24 Nebraska, is amended to read:

25 17-607 (1) The treasurer of a city of the second class

1 or village shall deposit, and at all times keep on deposit,
2 for safekeeping, in banks, capital stock financial institutions,
3 or qualifying mutual financial institutions of approved and
4 responsible standing, all money collected, received, or held by
5 him or her as city or village treasurer. Such deposits shall
6 be subject to all regulations imposed by law or adopted by the
7 city council or board of trustees for the receiving and holding
8 thereof. The fact that a stockholder, director, or other officer
9 of such bank, capital stock financial institution, or qualifying
10 mutual financial institution is also serving as mayor, as a member
11 of the city council, as a member of the board of trustees, as a
12 member of a board of public works, or as any other officer of
13 such municipality shall not disqualify such bank, capital stock
14 financial institution, or qualifying mutual financial institution
15 from acting as a depository for such municipal funds. Section
16 77-2366 shall apply to deposits in capital stock financial
17 institutions. Section 77-2365.01 shall apply to deposits in
18 qualifying mutual financial institutions.

19 (2) The council or board of trustees shall require from
20 all banks, capital stock financial institutions, or qualifying
21 mutual financial institutions (a) a bond in such penal sum as
22 may be the maximum amount on deposit at any time less the amount
23 insured or guaranteed by the Federal Deposit Insurance Corporation
24 or National Credit Union Administration or, in lieu thereof, (b)
25 security given as provided in the Public Funds Deposit Security

1 Act, to secure the payment of all such deposits and accretions. The
2 council or board shall approve such bond or giving of security. The
3 city treasurer or village treasurer shall not be liable for any
4 loss of any money sustained by reason of the failure of any such
5 depository so designated and approved.

6 Sec. 9. Section 17-720, Reissue Revised Statutes of
7 Nebraska, is amended to read:

8 17-720 The city or village treasurer of cities of the
9 second class and villages may, upon resolution of the mayor
10 and council or board of trustees authorizing the same, purchase
11 certificates of deposit from and make time deposits in any bank,
12 capital stock financial institution, or qualifying mutual financial
13 institution in the State of Nebraska to the extent that such
14 certificates of deposit or time deposits are insured or guaranteed
15 by the Federal Deposit Insurance Corporation or National Credit
16 Union Administration. Deposits may be made in excess of the amounts
17 so secured by the corporation, and the amount of the excess deposit
18 shall be secured by a bond or by security given in the same manner
19 as is provided for cities of the first class in sections 16-714 to
20 16-716 as of the time the deposit is made. Section 77-2366 shall
21 apply to deposits in capital stock financial institutions. Section
22 77-2365.01 shall apply to deposits in qualifying mutual financial
23 institutions.

24 Sec. 10. Section 30-3209, Reissue Revised Statutes of
25 Nebraska, is amended to read:

1 30-3209 (1) Corporate trustees authorized by Nebraska law
2 to exercise fiduciary powers and holding retirement or pension
3 funds for the benefit of employees or former employees of cities,
4 villages, school districts, public power districts, or other
5 governmental or political subdivisions may invest and reinvest
6 such funds in such securities and investments as are authorized
7 for trustees, guardians, conservators, personal representatives, or
8 administrators under the laws of Nebraska. Retirement or pension
9 funds of such cities, villages, districts, or subdivisions may be
10 invested in annuities issued by life insurance companies authorized
11 to do business in Nebraska. Except as provided in subsection
12 (2) of this section, any other retirement or pension funds
13 of cities, including cities operating under home rule charters,
14 villages, school districts except as provided in section 79-9,107,
15 public power districts, and all other governmental or political
16 subdivisions may be invested and reinvested, as the governing body
17 of such city, village, school district, public power district, or
18 other governmental or political subdivision may determine, in the
19 following classes of securities and investments: (a) Bonds, notes,
20 or other obligations of the United States or those guaranteed
21 by or for which the credit of the United States is pledged for
22 the payment of the principal and interest or dividends thereof;
23 (b) bonds or other evidences of indebtedness of the State of
24 Nebraska and full faith and credit obligations of or obligations
25 unconditionally guaranteed as to principal and interest by any

1 other state of the United States; (c) bonds, notes, or obligations
2 of any municipal or political subdivision of the State of Nebraska
3 which are general obligations of the issuer thereof and revenue
4 bonds or debentures of any city, county, or utility district of
5 this state when the earnings available for debt service have, for
6 a five-year period immediately preceding the date of purchase,
7 averaged not less than one and one-half times such debt service
8 requirements; (d) bonds and debentures issued either singly or
9 collectively by any of the twelve federal land banks, the twelve
10 intermediate credit banks, or the thirteen banks for cooperatives
11 under the supervision of the Farm Credit Administration; (e)
12 certificates of deposit of banks which are members of the
13 Federal Deposit Insurance Corporation or capital stock financial
14 institutions, and if the amount deposited exceeds the amount of
15 insurance available thereon, then the excess shall be secured in
16 the same manner as for the deposit of public funds; (f) accounts
17 with building and loan associations, qualifying mutual financial
18 institutions, or federal savings and loan associations in the
19 State of Nebraska to the extent that such accounts are insured or
20 guaranteed by the Federal Deposit Insurance Corporation or National
21 Credit Union Administration; (g) bonds or other interest-bearing
22 obligations of any corporation organized under the laws of the
23 United States or any state thereof if (i) at the time the purchase
24 is made, they are given, by at least one statistical organization
25 whose publication is in general use, one of the three highest

1 ratings given by such organization and (ii) not more than five
2 percent of the fund shall be invested in the obligations of any
3 one issuer; (h) direct short-term obligations, generally classified
4 as commercial paper, of any corporation organized or existing under
5 the laws of the United States or any state thereof with a net
6 worth of ten million dollars or more; and (i) preferred or common
7 stock of any corporation organized under the laws of the United
8 States or of any state thereof with a net worth of ten million
9 dollars or more if (i) not more than fifty percent of the total
10 investments at the time such investment is made is in this class
11 and not more than five percent is invested in each of the first
12 five years and (ii) not more than five percent thereof is invested
13 in the securities of any one corporation. Notwithstanding the
14 percentage limits stated in this subsection, the cash proceeds of
15 the sale of such preferred or common stock may be reinvested in
16 any securities authorized under this subdivision. No city, village,
17 school district, public power district, or other governmental
18 subdivision or the governing body thereof shall be authorized
19 to sell any securities short, buy on margin, or buy, sell, or
20 engage in puts and calls. Section 77-2366 shall apply to deposits
21 in capital stock financial institutions. Section 77-2365.01 shall
22 apply to deposits in qualifying mutual financial institutions.

23 (2) Notwithstanding the limitations prescribed in
24 subsection (1) of this section, trustees holding retirement or
25 pension funds for the benefit of employees or former employees

1 of any city of the metropolitan class, metropolitan utilities
2 district, or county in which a city of the metropolitan class is
3 located shall invest such funds in investments of the nature which
4 individuals of prudence, discretion, and intelligence acquire or
5 retain in dealing with the property of another. Such investments
6 shall not be made for speculation but for investment, considering
7 the probable safety of their capital as well as the probable income
8 to be derived. The trustees shall not buy on margin, buy call
9 options, or buy put options. The trustees may lend any security
10 if cash, United States Government obligations, or United States
11 Government agency obligations with a market value equal to or
12 exceeding the market value of the security lent are received as
13 collateral. If shares of stock are purchased under this subsection,
14 all proxies may be voted by the trustees. The asset allocation
15 restrictions set forth in subsection (1) of this section shall
16 not be applicable to the funds of pension or retirement systems
17 administered by or on behalf of a city of the metropolitan class,
18 metropolitan utilities district, or county in which a city of the
19 metropolitan class is located.

20 Sec. 11. Section 77-2305, Reissue Revised Statutes of
21 Nebraska, is amended to read:

22 77-2305 The State Treasurer shall not have on deposit in
23 any bank giving a guaranty bond more than the amount insured or
24 guaranteed by the Federal Deposit Insurance Corporation or National
25 Credit Union Administration plus the maximum amount of the bond

1 given by the bank, nor any bank giving a personal bond more than
2 the amount insured or guaranteed by the Federal Deposit Insurance
3 Corporation or National Credit Union Administration, plus one-half
4 of the amount of the bond of the bank. The amount deposited in
5 any bank shall not exceed the amount insured or guaranteed by
6 the Federal Deposit Insurance Corporation or National Credit Union
7 Administration plus twice its capital stock and surplus, but no
8 bonds or giving of security shall be required for funds over which
9 the state investment officer has investment jurisdiction except
10 those funds which are eligible for long-term investment. All bonds
11 of such depositories shall be deposited with and held by the State
12 Treasurer.

13 Sec. 12. Section 77-2318, Reissue Revised Statutes of
14 Nebraska, is amended to read:

15 77-2318 The county treasurer shall not have on deposit
16 in any bank, capital stock financial institution, or qualifying
17 mutual financial institution at any time more money than the amount
18 insured or guaranteed by the Federal Deposit Insurance Corporation
19 or National Credit Union Administration, plus the maximum amount of
20 the bond given by such bank, capital stock financial institution,
21 or qualifying mutual financial institution in cases when the
22 bank, capital stock financial institution, or qualifying mutual
23 financial institution gives a guaranty bond except as provided in
24 section 77-2318.01. The amount on deposit at any time with any
25 bank, capital stock financial institution, or qualifying mutual

1 financial institution shall not exceed fifty percent of the capital
2 and surplus of such bank, capital stock financial institution,
3 or qualifying mutual financial institution except as provided in
4 section 77-2318.01. When the amount of money which the county
5 treasurer desires to deposit in the banks, capital stock financial
6 institutions, and qualifying mutual financial institutions within
7 the county exceeds fifty percent of the capital and surplus of all
8 of the banks, capital stock financial institutions, and qualifying
9 mutual financial institutions in such county, then the county
10 treasurer may, with the consent of the county board, deposit an
11 amount in excess thereof, but not exceeding the capital stock
12 and surplus in any one bank, capital stock financial institution,
13 or qualifying mutual financial institution unless the depository
14 gives security as provided in section 77-2318.01. Bond shall be
15 required of all banks, capital stock financial institutions, and
16 qualifying mutual financial institutions for such excess deposit
17 unless security is given in accordance with section 77-2318.01. The
18 bonds shall be deposited with the county clerk and approved by the
19 county board. Section 77-2366 shall apply to deposits in capital
20 stock financial institutions. Section 77-2365.01 shall apply to
21 deposits in qualifying mutual financial institutions.

22 Sec. 13. Section 77-2326.04, Reissue Revised Statutes of
23 Nebraska, is amended to read:

24 77-2326.04 No deposits in excess of the amount insured
25 or guaranteed by the Federal Deposit Insurance Corporation or

1 National Credit Union Administration shall be made to accumulate
2 in any bank, capital stock financial institution, or qualifying
3 mutual financial institution designated as a depository unless and
4 until the county judge, clerk of the county court, or clerk of
5 the district court, as the case may be, has received from such
6 depository as security for the prompt repayment by the depository
7 of his or her respective deposits in excess of the amount insured
8 or guaranteed by the Federal Deposit Insurance Corporation or
9 National Credit Union Administration either a surety bond in form
10 and with corporate sureties approved by the county judge or judges
11 or by formal resolution of the county board, as the case may be, or
12 in lieu thereof, the giving of security as provided in the Public
13 Funds Deposit Security Act. Section 77-2366 shall apply to deposits
14 in capital stock financial institutions. Section 77-2365.01 shall
15 apply to deposits in qualifying mutual financial institutions.

16 Sec. 14. Section 77-2340, Reissue Revised Statutes of
17 Nebraska, is amended to read:

18 77-2340 The county treasurers of the various counties of
19 the state may, upon resolution of their respective county boards
20 authorizing the same, make time deposits in banks, capital stock
21 financial institutions, or qualifying mutual financial institutions
22 selected as depositories of county funds under the provisions of
23 sections 77-2312 to 77-2315. The time deposits shall bear interest
24 and shall be secured as set forth in section 77-2304 or 77-2320,
25 except that the amount insured or guaranteed by the Federal Deposit

1 Insurance Corporation or National Credit Union Administration shall
2 be exempt from the requirement of being secured as provided by
3 section 77-2320 or by bonds similar to the bond required and set
4 forth in section 77-2304. Section 77-2366 shall apply to deposits
5 in capital stock financial institutions. Section 77-2365.01 shall
6 apply to deposits in qualifying mutual financial institutions.

7 Sec. 15. Section 77-2344, Reissue Revised Statutes of
8 Nebraska, is amended to read:

9 77-2344 No deposit in excess of the amount insured
10 or guaranteed by the Federal Deposit Insurance Corporation or
11 National Credit Union Administration shall be made in any bank,
12 capital stock financial institution, or qualifying mutual financial
13 institution designated as a depository unless and until the
14 metropolitan utilities district has received from such depository
15 as security for the prompt repayment by the depository either
16 a corporate surety bond in form and with sureties approved by
17 formal resolution by the governing body of such district or the
18 giving of security as provided in the Public Funds Deposit Security
19 Act. Section 77-2366 shall apply to deposits in capital stock
20 financial institutions. Section 77-2365.01 shall apply to deposits
21 in qualifying mutual financial institutions.

22 Sec. 16. Section 77-2345, Reissue Revised Statutes of
23 Nebraska, is amended to read:

24 77-2345 No deposit shall be made in any designated bank,
25 capital stock financial institution, or qualifying mutual financial

1 institution (1) in excess of the amount insured or guaranteed
2 by the Federal Deposit Insurance Corporation or National Credit
3 Union Administration or (2) in excess of the obligation of the
4 depository bond at the time any deposit of funds is made or
5 during the period in which the deposit of funds remains in the
6 depository. Section 77-2366 shall apply to deposits in capital
7 stock financial institutions. Section 77-2365.01 shall apply to
8 deposits in qualifying mutual financial institutions.

9 Sec. 17. Section 77-2352, Reissue Revised Statutes of
10 Nebraska, is amended to read:

11 77-2352 No deposit in excess of the amount insured
12 or guaranteed by the Federal Deposit Insurance Corporation or
13 National Credit Union Administration shall be made in any bank,
14 capital stock financial institution, or qualifying mutual financial
15 institution designated as a depository unless and until the
16 treasurer or ex officio treasurer has received from the depository
17 as security for the prompt repayment by the depository either
18 a corporate surety bond in form and with sureties approved by
19 formal resolution by the governing body of such district or the
20 giving of security as provided in the Public Funds Deposit Security
21 Act. Section 77-2366 shall apply to deposits in capital stock
22 financial institutions. Section 77-2365.01 shall apply to deposits
23 in qualifying mutual financial institutions.

24 Sec. 18. Section 77-2355, Reissue Revised Statutes of
25 Nebraska, is amended to read:

1 77-2355 No deposits in excess of the amount insured
2 or guaranteed by the Federal Deposit Insurance Corporation or
3 National Credit Union Administration shall be made or be allowed
4 to accumulate in any bank, capital stock financial institution, or
5 qualifying mutual financial institution designated as a depository
6 unless and until the treasurer or other competent officer of
7 the district has received from such depository as security for
8 the prompt repayment of such deposits by the depository either
9 a surety bond in form and with corporate sureties approved by
10 formal resolution of the board of directors of such district or,
11 in lieu thereof, the giving of security as provided in the Public
12 Funds Deposit Security Act. Section 77-2366 shall apply to deposits
13 in capital stock financial institutions. Section 77-2365.01 shall
14 apply to deposits in qualifying mutual financial institutions.

15 Sec. 19. Section 77-2362, Reissue Revised Statutes of
16 Nebraska, is amended to read:

17 77-2362 Whenever, by the laws of this state, any
18 municipal corporation or other governmental subdivision of the
19 state is authorized or required to obtain or accept from
20 banks, capital stock financial institutions, or qualifying
21 mutual financial institutions surety bonds or other bonds as
22 security for deposits of public funds belonging to such municipal
23 corporation or other governmental subdivision, the insurance or
24 guarantee afforded to depositors in banks, capital stock financial
25 institutions, or qualifying mutual financial institutions through

1 the Federal Deposit Insurance Corporation or National Credit Union
2 Administration, organized under the laws of the United States,
3 shall be deemed and construed to be, for the purposes of such
4 laws, a surety bond or bonds to the extent that such deposits are
5 insured or guaranteed by such corporation or administration, and
6 for deposits so insured or guaranteed, no other surety bond or
7 bonds or other security shall be required. Section 77-2366 shall
8 apply to deposits in capital stock financial institutions. Section
9 77-2365.01 shall apply to deposits in qualifying mutual financial
10 institutions.

11 Sec. 20. Section 77-2365.01, Revised Statutes Cumulative
12 Supplement, 2008, is amended to read:

13 77-2365.01 (1)(a) Notwithstanding any other provision
14 of law, any local ordinance, regulation, or resolution, or any
15 rule or regulation to the contrary, the funds of this state
16 or any political subdivision of the state may be deposited, by
17 the appropriate custodians of such funds, with qualifying mutual
18 financial institutions to the same extent and subject to the same
19 terms, conditions, and limitations, including collateralization
20 required, if any, as may be otherwise provided for the deposit
21 of such funds in banks and capital stock financial institutions,
22 except that a political subdivision of the state which is located
23 in a community where there is no bank, capital stock financial
24 institution, or qualifying mutual financial institution may deposit
25 such funds with a state or federal mutual organized credit union

1 located in the community where the office of the political
2 subdivision is located in an amount not to exceed the amount
3 insured or guaranteed by the National Credit Union Administration.

4 In making such a deposit of public funds, it shall not be necessary
5 for the state or any political subdivision to become an owner of
6 any interest in the qualifying mutual financial institution or to
7 acquire voting rights therein, and a qualifying mutual financial
8 institution is authorized and empowered to receive public funds
9 under these conditions. Qualifying mutual financial institution
10 means a state or federal mutual building and loan association,
11 a state or federal mutual savings and loan association, a state
12 or federal mutual savings bank, or a state or federal mutual
13 organized bank, which has a main chartered office in this state,
14 any branch thereof in this state, or any branch in this state
15 of a qualifying mutual financial institution which maintained a
16 main chartered office in this state prior to becoming a branch of
17 such qualifying mutual financial institution, or a state or federal
18 mutual organized credit union which is located in a community
19 where there is no bank, capital stock financial institution, or
20 qualifying mutual financial institution, and which, by its charter
21 and bylaws, restricts the rights of the state or a political
22 subdivision as an account holder as follows:

23 (i) Interest in the qualifying mutual financial
24 institution is limited to the withdrawal value of the state's or
25 the political subdivision's account;

1 (ii) The state or the political subdivision has no voting
2 rights in the qualifying mutual financial institution; and

3 (iii) The state or the political subdivision has no
4 entitlement to any distribution of assets upon voluntary or
5 involuntary liquidation, dissolution, or winding up of the affairs
6 of the qualifying mutual financial institution.

7 (b) To the extent any deposit in any bank is:

8 (i) Required to be subject to check or draft, then such
9 deposit may be subject to order; and

10 (ii) Required to be made, maintained, or otherwise dealt
11 with by reference to the capital of any bank, then it may be so
12 made, maintained, or dealt with by reference to the capital or net
13 worth of such qualifying mutual financial institution, and if by
14 reference to the undivided profits, capital notes, debentures, or
15 other capital items of any bank, then to any unimpaired reserves,
16 capital notes, and debentures or comparable capital items of such
17 qualifying mutual financial institution.

18 (2) To the extent the state or a political subdivision
19 is or may ever be required by law to deposit funds in a bank,
20 the state or political subdivision shall, to the same extent and
21 subject to the same terms, conditions, and limitations, including
22 collateralization required, be required to make deposits in a
23 qualifying mutual financial institution on the same basis.

24 (3) The restriction in subdivision (1)(a)(iii) of this
25 section shall not apply to the interest of the state or political

1 subdivision in any security required by law to be furnished by the
2 qualifying mutual financial institution.

3 (4) A qualifying mutual financial institution that amends
4 its charter or bylaws in such a manner that it no longer meets the
5 restrictions set forth in subdivisions (1)(a)(i) through (iii) of
6 this section shall immediately give notice that it is no longer a
7 qualifying mutual financial institution to the custodial official,
8 as that term is defined in section 77-2387, of every state and
9 political subdivision depositor, and that the state or political
10 subdivision must immediately withdraw its deposits.

11 (5) This section shall be applied in a manner consistent
12 with the intention of the Legislature which is to provide for
13 the deposit of funds of the state or any political subdivision in
14 qualifying mutual financial institutions.

15 Sec. 21. Section 77-2365.02, Revised Statutes Cumulative
16 Supplement, 2008, is amended to read:

17 77-2365.02 Notwithstanding any other provision of law,
18 to the extent that the funds of this state or any political
19 subdivision of this state may be invested, by the appropriate
20 custodian of such funds, in certificates of deposit or time
21 deposits with banks, capital stock financial institutions, or
22 qualifying mutual financial institutions, such authorization shall
23 include the investment of funds in certificates of deposit and time
24 deposits in accordance with the following conditions:

25 (1) The bank, capital stock financial institution, or

1 qualifying mutual financial institution in this state through which
2 the investment of funds is initially made arranges for the deposit
3 of a portion or all of such funds in one or more certificates of
4 deposit or time deposits with other banks, capital stock financial
5 institutions, or qualifying mutual financial institutions located
6 in the United States;

7 (2) Each such certificate of deposit or time deposit
8 is fully insured or guaranteed by the Federal Deposit Insurance
9 Corporation or National Credit Union Administration;

10 (3) The bank, capital stock financial institution,
11 or qualifying mutual financial institution through which the
12 investment of funds was initially made acts as a custodian for the
13 state or political subdivision with respect to any such certificate
14 of deposit or time deposit issued for the account of the state or
15 political subdivision; and

16 (4) At the same time that the funds are deposited into
17 and such certificates of deposit or time deposits are issued by
18 other banks, capital stock financial institutions, or qualifying
19 mutual financial institutions, the bank, capital stock financial
20 institution, or qualifying mutual financial institution through
21 which the investment of funds in certificates of deposit or time
22 deposits was initially made receives an amount of deposits from
23 customers of other banks, capital stock financial institutions,
24 or qualifying mutual financial institutions located in the United
25 States which is equal to or greater than the amount of the

1 investment of funds in certificates of deposit or time deposits
2 initially made by the state or political subdivision.

3 Sec. 22. Section 77-2375, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 77-2375 The secretary-treasurer shall not have on deposit
6 in any bank, capital stock financial institution, or qualifying
7 mutual financial institution at any time more money than the
8 amount insured or guaranteed by the Federal Deposit Insurance
9 Corporation or National Credit Union Administration, plus the
10 maximum amount of the bond given by such bank, capital stock
11 financial institution, or qualifying mutual financial institution
12 in cases when the bank, capital stock financial institution, or
13 qualifying mutual financial institution gives a guaranty bond,
14 except as provided in section 77-2376. The amount on deposit at
15 any time with any bank, capital stock financial institution, or
16 qualifying mutual financial institution shall not exceed fifty
17 percent of the capital and surplus of such bank, capital stock
18 financial institution, or qualifying mutual financial institution,
19 except as provided in section 77-2376. When the amount of
20 money which the secretary-treasurer desires to deposit in the
21 banks, capital stock financial institutions, or qualifying mutual
22 financial institutions within the district exceeds fifty percent
23 of the capital and surplus of all of the banks, capital stock
24 financial institutions, or qualifying mutual financial institutions
25 in such local hospital district, the secretary-treasurer may,

1 with the consent of the board of directors, deposit an amount
2 in excess thereof, but not exceeding the capital and surplus in
3 any one bank, capital stock financial institution, or qualifying
4 mutual financial institution, unless the depository gives security
5 as provided in section 77-2376. Bond shall be required of all
6 banks, capital stock financial institutions, or qualifying mutual
7 financial institutions for such excess deposit, unless security
8 is given in accordance with section 77-2376. The bonds shall be
9 deposited with the secretary-treasurer and approved by the board of
10 directors. Section 77-2366 shall apply to deposits in capital stock
11 financial institutions. Section 77-2365.01 shall apply to deposits
12 in qualifying mutual financial institutions.

13 Sec. 23. Section 77-2385, Reissue Revised Statutes of
14 Nebraska, is amended to read:

15 77-2385 The secretary-treasurers of the various local
16 hospital districts of the state may, upon resolution of their
17 respective boards of directors authorizing such action, make
18 time deposits in banks, capital stock financial institutions, or
19 qualifying mutual financial institutions selected as depositories
20 of the local hospital district funds under sections 77-2369 to
21 77-2372. The time deposits shall bear interest and shall be secured
22 as set forth in section 77-2304 or 77-2378, except that the amount
23 insured or guaranteed by the Federal Deposit Insurance Corporation
24 or National Credit Union Administration shall be exempt from the
25 requirement of being secured as provided by section 77-2378 or

1 by bonds similar to the bond required and set forth in section
2 77-2304. Section 77-2366 shall apply to deposits in capital stock
3 financial institutions. Section 77-2365.01 shall apply to deposits
4 in qualifying mutual financial institutions.

5 Sec. 24. For purposes of any law requiring a bank,
6 capital stock financial institution as defined under section
7 77-2366, or qualifying mutual financial institution as defined
8 under section 77-2365.01, to secure the deposit of public money or
9 public funds in excess of the amount insured by the Federal Deposit
10 Insurance Corporation or National Credit Union Administration,
11 references to amounts insured by the Federal Deposit Insurance
12 Corporation or National Credit Union Administration shall include
13 amounts guaranteed by the Federal Deposit Insurance Corporation or
14 National Credit Union Administration.

15 Sec. 25. Section 77-2387, Revised Statutes Cumulative
16 Supplement, 2008, is amended to read:

17 77-2387 For purposes of the Public Funds Deposit Security
18 Act, unless the context otherwise requires:

19 (1) Affiliate means any entity that controls, is
20 controlled by, or is under common control with another entity;

21 (2) Bank means any state-chartered or federally chartered
22 bank which has a main chartered office in this state, any
23 branch thereof in this state, or any branch in this state of
24 a state-chartered or federally chartered bank which maintained a
25 main chartered office in this state prior to becoming a branch of

1 such state-chartered or federally chartered bank;

2 (3) Capital stock financial institution means a capital
3 stock state building and loan association, a capital stock federal
4 savings and loan association, a capital stock federal savings bank,
5 and a capital stock state savings bank, which has a main chartered
6 office in this state, any branch thereof in this state, or any
7 branch in this state of a capital stock financial institution which
8 maintained a main chartered office in this state prior to becoming
9 a branch of such capital stock financial institution;

10 (4) Control means to own directly or indirectly or to
11 control in any manner twenty-five percent of the voting shares of
12 any bank, capital stock financial institution, or holding company
13 or to control in any manner the election of the majority of
14 directors of any bank, capital stock financial institution, or
15 holding company;

16 (5) Custodial official means an officer or an employee of
17 the State of Nebraska or any political subdivision who, by law, is
18 made custodian of or has control over public money or public funds
19 subject to the act or the security for the deposit of public money
20 or public funds subject to the act;

21 (6) Deposit guaranty bond means a bond underwritten by
22 an insurance company authorized to do business in this state
23 which provides coverage for deposits of a governing authority
24 which are in excess of the amounts insured or guaranteed by the
25 Federal Deposit Insurance Corporation or National Credit Union

1 Administration;

2 (7) Event of default means the issuance of an order
3 by a supervisory authority or a receiver which restrains a bank,
4 capital stock financial institution, or qualifying mutual financial
5 institution from paying its deposit liabilities;

6 (8) Governing authority means the official, or the
7 governing board, council, or other body or group of officials,
8 authorized to designate a bank, capital stock financial
9 institution, or qualifying mutual financial institution as a
10 depository of public money or public funds subject to the act;

11 (9) Governmental unit means the State of Nebraska or any
12 political subdivision thereof;

13 (10) Qualifying mutual financial institution shall have
14 the same meaning as in section 77-2365.01;

15 (11) Repurchase agreement means an agreement to purchase
16 securities by the governing authority by which the counterparty
17 bank, capital stock financial institution, or qualifying mutual
18 financial institution will repurchase the securities on or before
19 a specified date and for a specified amount and the counterparty
20 bank, capital stock financial institution, or qualifying mutual
21 financial institution will deliver the underlying securities
22 to the governing authority by book entry, physical delivery,
23 or third-party custodial agreement. The transfer of underlying
24 securities to the counterparty bank's, capital stock financial
25 institution's, or qualifying mutual financial institution's

1 customer book entry account may be used for book entry delivery if
2 the governing authority so chooses; and

3 (12) Securities means:

4 (a) Bonds or obligations fully and unconditionally
5 guaranteed both as to principal and interest by the United States
6 Government;

7 (b) United States Government notes, certificates of
8 indebtedness, or treasury bills of any issue;

9 (c) United States Government bonds;

10 (d) United States Government guaranteed bonds or notes;

11 (e) Bonds or notes of United States Government agencies;

12 (f) Bonds of any state or political subdivision which are
13 fully defeased as to principal and interest by any combination of
14 bonds or notes authorized in subdivision (c), (d), or (e) of this
15 subdivision;

16 (g) Bonds or obligations, including mortgage-backed
17 obligations, issued by the Federal Home Loan Mortgage Corporation,
18 the ~~federal farm credit system~~, Federal Farm Credit System,
19 a Federal Home Loan Bank, or the Federal National Mortgage
20 Association;

21 (h) Repurchase agreements the subject securities of which
22 are any of the securities described in subdivisions (a) through (g)
23 of this subdivision;

24 (i) Securities issued under the authority of the Federal
25 Farm Loan Act;

1 (j) Loan participations which carry the guarantee of
2 the Commodity Credit Corporation, an instrumentality of the United
3 States Department of Agriculture;

4 (k) Guaranty agreements of the Small Business
5 Administration of the United States Government;

6 (l) Bonds or obligations of any county, city, village,
7 metropolitan utilities district, public power and irrigation
8 district, sewer district, fire protection district, rural water
9 district, or school district in this state which have been issued
10 as required by law;

11 (m) Bonds of the State of Nebraska or of any other state
12 which are purchased by the Board of Educational Lands and Funds of
13 this state for investment in the permanent school fund or which
14 are purchased by the state investment officer of this state for
15 investment in the permanent school fund;

16 (n) Bonds or obligations of another state, or a political
17 subdivision of another state, which are rated within the two
18 highest classifications of prime by at least one of the standard
19 rating services;

20 (o) Warrants of the State of Nebraska;

21 (p) Warrants of any county, city, village, local hospital
22 district, or school district in this state;

23 (q) Irrevocable, nontransferable, unconditional standby
24 letters of credit issued by the Federal Home Loan Bank of Topeka;
25 and

1 (r) Certificates of deposit fully insured or guaranteed
2 by the Federal Deposit Insurance Corporation or National Credit
3 Union Administration that are issued to a bank, capital stock
4 financial institution, or qualifying mutual financial institution
5 furnishing securities pursuant to the Public Funds Deposit Security
6 Act.

7 Sec. 26. Section 77-2388, Reissue Revised Statutes of
8 Nebraska, is amended to read:

9 77-2388 Any bank, capital stock financial institution, or
10 qualifying mutual financial institution subject to a requirement
11 by law to secure the deposit of public money or public funds in
12 excess of the amount insured or guaranteed by the Federal Deposit
13 Insurance Corporation or National Credit Union Administration may
14 give security by furnishing securities or providing a deposit
15 guaranty bond pursuant to the Public Funds Deposit Security Act in
16 satisfaction of the requirement.

17 Sec. 27. Section 77-2389, Reissue Revised Statutes of
18 Nebraska, is amended to read:

19 77-2389 A bank, capital stock financial institution,
20 or qualifying mutual financial institution furnishes securities
21 pursuant to the Public Funds Deposit Security Act if it (1)
22 deposits securities held by the bank, capital stock financial
23 institution, or qualifying mutual financial institution, (2)
24 pledges or grants a security interest in securities held by the
25 bank, capital stock financial institution, or qualifying mutual

1 financial institution as provided in the act, or (3) effects the
2 assignment to the custodial official of a certificate of deposit
3 fully insured or guaranteed by the Federal Deposit Insurance
4 Corporation or National Credit Union Administration that is issued
5 to the bank, capital stock financial institution, or qualifying
6 mutual financial institution.

7 Sec. 28. Section 77-2395, Reissue Revised Statutes of
8 Nebraska, is amended to read:

9 77-2395 (1) If a bank, capital stock financial
10 institution, or qualifying mutual financial institution designated
11 as a depository furnishes securities pursuant to section 77-2389,
12 the custodial official shall not have on deposit in such depository
13 any public money or public funds in excess of the amount insured or
14 guaranteed by the Federal Deposit Insurance Corporation or National
15 Credit Union Administration, unless and until the depository has
16 furnished to the custodial official securities, the market value of
17 which are in an amount not less than one hundred two percent of
18 the amount on deposit which is in excess of the amount so insured
19 or guaranteed.

20 (2) If a bank, capital stock financial institution, or
21 qualifying mutual financial institution designated as a depository
22 furnishes securities pursuant to subsection (1) of section 77-2398,
23 the custodial official shall not have on deposit in such depository
24 any public money or public funds in excess of the amount insured or
25 guaranteed by the Federal Deposit Insurance Corporation or National

1 Credit Union Administration, unless and until the depository has
2 furnished to the custodial official securities, the market value of
3 which are in an amount not less than one hundred five percent of
4 the amount on deposit which is in excess of the amount so insured
5 or guaranteed.

6 (3) If a bank, capital stock financial institution, or
7 qualifying mutual financial institution designated as a depository
8 provides a deposit guaranty bond pursuant to the act, Public Funds
9 Deposit Security Act, the custodial official shall not have on
10 deposit in such depository any public money or public funds in
11 excess of the amount insured or guaranteed by the Federal Deposit
12 Insurance Corporation or National Credit Union Administration,
13 unless and until the depository has provided to the custodial
14 official a deposit guaranty bond in an amount not less than the
15 amount on deposit which is in excess of the amount so insured or
16 guaranteed.

17 Sec. 29. Section 77-2398, Reissue Revised Statutes of
18 Nebraska, is amended to read:

19 77-2398 (1) As an alternative to the requirements to
20 secure the deposit of public money or public funds in excess of
21 the amount insured or guaranteed by the Federal Deposit Insurance
22 Corporation or National Credit Union Administration pursuant to
23 sections 77-2389 and 77-2394, a bank, capital stock financial
24 institution, or qualifying mutual financial institution designated
25 as a public depository may secure the deposits of one or more

1 governmental units by providing a deposit guaranty bond or by
2 depositing, pledging, or granting a security interest in a single
3 pool of securities to secure the repayment of all public money
4 or public funds deposited in the bank, capital stock financial
5 institution, or qualifying mutual financial institution by such
6 governmental units and not otherwise secured pursuant to law, if
7 at all times the total value of the deposit guaranty bond is
8 at least equal to the amount on deposit which is in excess of
9 the amount so insured or guaranteed or the aggregate market value
10 of the pool of securities so deposited, pledged, or in which a
11 security interest is granted is at least equal to one hundred
12 five percent of the amount on deposit which is in excess of the
13 amount so insured or guaranteed. Each such bank, capital stock
14 financial institution, or qualifying mutual financial institution
15 shall carry on its accounting records at all times a general ledger
16 or other appropriate account of the total amount of all public
17 money or public funds to be secured by a deposit guaranty bond or
18 by the pool of securities, as determined at the opening of business
19 each day, and the total value of the deposit guaranty bond or
20 the aggregate market value of the pool of securities deposited,
21 pledged, or in which a security interest is granted to secure such
22 public money or public funds.

23 (2) Only the securities listed in subdivision (12) of
24 section 77-2387 may be provided and accepted as security for the
25 deposit of public money or public funds and shall be eligible as

1 collateral. The qualified trustee shall accept no security which is
2 not listed in subdivision (12) of section 77-2387.

3 Sec. 30. Section 77-23,100, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 77-23,100 (1) Any bank, capital stock financial
6 institution, or qualifying mutual financial institution in which
7 public money or public funds have been deposited which satisfies
8 its requirement to secure the deposit of public money or public
9 funds in excess of the amount insured or guaranteed by the
10 Federal Deposit Insurance Corporation or National Credit Union
11 Administration by the deposit, pledge, or granting of a security
12 interest in a single pool of securities shall designate a
13 qualified trustee and place with the trustee for holding the
14 securities so deposited, pledged, or in which a security interest
15 has been granted pursuant to subsection (1) of section 77-2398.
16 The bank, capital stock financial institution, or qualifying
17 mutual financial institution shall give written notice of the
18 designation of the qualified trustee to any custodial official
19 depositing public money or public funds for which such securities
20 are deposited, pledged, or in which a security interest has been
21 granted, and if an affiliate of the bank, capital stock financial
22 institution, or qualifying mutual financial institution is to
23 serve as the qualified trustee, the notice shall disclose the
24 affiliate relationship and shall be given prior to designation of
25 the qualified trustee. The custodial official shall accept the

1 written receipt of the trustee describing the pool of securities
2 so deposited, pledged, or in which a security interest has been
3 granted by the bank, capital stock financial institution, or
4 qualifying mutual financial institution, a copy of which shall also
5 be delivered to the bank, capital stock financial institution, or
6 qualifying mutual financial institution.

7 (2) Any bank, capital stock financial institution,
8 or qualifying mutual financial institution which satisfies its
9 requirement to secure the deposit of public money or public
10 funds in excess of the amount insured or guaranteed by the
11 Federal Deposit Insurance Corporation or National Credit Union
12 Administration under the Public Funds Deposit Security Act by
13 providing a deposit guaranty bond pursuant to the provisions of
14 subsection (1) of section 77-2398 shall designate a qualified
15 trustee and cause to be issued a deposit guaranty bond which runs
16 to the qualified trustee and which is conditioned that the bank,
17 capital stock financial institution, or qualifying mutual financial
18 institution shall render to the qualified trustee the statement
19 required under subsection (3) of this section.

20 (3) Each bank, capital stock financial institution,
21 or qualifying mutual financial institution which satisfies its
22 requirement to secure the deposit of public money or public
23 funds in excess of the amount insured or guaranteed by the
24 Federal Deposit Insurance Corporation or National Credit Union
25 Administration by providing a deposit guaranty bond or by

1 depositing, pledging, or granting a security interest in a single
2 pool of securities shall, on or before the tenth day of each month,
3 render to the qualified trustee a statement showing as of the last
4 business day of the previous month (a) the amount of public money
5 or public funds deposited in such bank, capital stock financial
6 institution, or qualifying mutual financial institution that is not
7 insured or guaranteed by the Federal Deposit Insurance Corporation
8 or National Credit Union Administration (i) by each custodial
9 official separately and (ii) by all custodial officials in the
10 aggregate and (b) the total value of the deposit guaranty bond or
11 the aggregate market value of the pool of securities deposited,
12 pledged, or in which a security interest has been granted pursuant
13 to subsection (1) of section 77-2398. Any qualified trustee shall
14 be authorized, acting for the benefit of custodial officials, to
15 take any and all actions necessary to take title to or to effect
16 a first perfected security interest in the securities deposited,
17 pledged, or in which a security interest is granted.

18 (4) Within ten days after receiving the statement
19 required under subsection (3) of this section from a bank,
20 capital stock financial institution, or qualifying mutual financial
21 institution, the qualified trustee shall provide a report to each
22 custodial official listed in such statement reflecting (a) the
23 amount of public money or public funds deposited in such bank,
24 capital stock financial institution, or qualifying mutual financial
25 institution by each custodial official as of the last business

1 day of the previous month that is not insured or guaranteed by
2 the Federal Deposit Insurance Corporation or National Credit Union
3 Administration and that is secured pursuant to subsection (1) of
4 section 77-2398 and (b) the total value of the deposit guaranty
5 bond or the aggregate market value of the pool of securities
6 deposited, pledged, or in which a security interest is granted
7 pursuant to subsection (1) of section 77-2398 as of the last
8 business day of the previous month. The report shall clearly notify
9 the custodial official if the value of the securities deposited
10 does not meet the statutory requirement.

11 Sec. 31. Section 77-23,101, Reissue Revised Statutes of
12 Nebraska, is amended to read:

13 77-23,101 Any Federal Reserve Bank, branch of a Federal
14 Reserve Bank, a federal home loan bank, or another responsible
15 bank which is authorized to exercise trust powers, capital stock
16 financial institution which is authorized to exercise trust powers,
17 qualifying mutual financial institution which is authorized to
18 exercise trust powers, or trust company, other than the pledgor
19 or the bank, capital stock financial institution, or qualifying
20 mutual financial institution providing the deposit guaranty bond or
21 granting the security interest, is qualified to act as a qualified
22 trustee for the receipt of a deposit guaranty bond or the holding
23 of securities under section 77-23,100. The bank, capital stock
24 financial institution, or qualifying mutual financial institution
25 in which public money or public funds are deposited may at any

1 time substitute, exchange, or release securities deposited with a
2 qualified trustee if such substitution, exchange, or release does
3 not reduce the aggregate market value of the pool of securities
4 to an amount that is less than one hundred five percent of the
5 total amount of public money or public funds less the portion
6 of such public money or public funds insured or guaranteed by
7 the Federal Deposit Insurance Corporation or National Credit Union
8 Administration. The bank, capital stock financial institution, or
9 qualifying mutual financial institution in which public money or
10 public funds are deposited may at any time reduce the amount of the
11 deposit guaranty bond if the reduction does not reduce the value of
12 the deposit guaranty bond to an amount less than the total amount
13 of public money or public funds less the portion of such public
14 money or public funds insured or guaranteed by the Federal Deposit
15 Insurance Corporation or National Credit Union Administration.

16 Sec. 32. Section 77-23,102, Reissue Revised Statutes of
17 Nebraska, is amended to read:

18 77-23,102 (1) If a bank, capital stock financial
19 institution, or qualifying mutual financial institution experiences
20 an event of default the qualified trustee shall proceed in the
21 following manner: (a) The qualified trustee shall ascertain the
22 aggregate amounts of public money or public funds secured pursuant
23 to subsection (1) of section 77-2398 and deposited in the bank,
24 capital stock financial institution, or qualifying mutual financial
25 institution which has defaulted, as disclosed by the records of

1 such bank, capital stock financial institution, or qualifying
2 mutual financial institution. The qualified trustee shall determine
3 for each custodial official for whom public money or public funds
4 are deposited in the defaulting bank, capital stock financial
5 institution, or qualifying mutual financial institution the
6 accounts and amount of federal deposit insurance or the National
7 Credit Union Administration that is available for each account. It
8 shall then determine for each such custodial official the amount
9 of public money or public funds not insured or guaranteed by
10 the Federal Deposit Insurance Corporation or the National Credit
11 Union Administration and the amount of the deposit guaranty bond
12 or pool of securities pledged, deposited, or in which a security
13 interest has been granted to secure such public money or public
14 funds. Upon completion of this analysis, the qualified trustee
15 shall provide each such custodial official with a statement that
16 reports the amount of public money or public funds deposited
17 by the custodial official in the defaulting bank, capital stock
18 financial institution, or qualifying mutual financial institution,
19 the amount of public money or public funds that may be insured or
20 guaranteed by the Federal Deposit Insurance Corporation or National
21 Credit Union Administration, and the amount of public money or
22 public funds secured by a deposit guaranty bond or secured by a
23 pool of securities pursuant to subsection (1) of section 77-2398.
24 Each such custodial official shall verify this information from
25 his or her records within ten business days after receiving the

1 report and information from the qualified trustee; and (b) upon
2 receipt of a verified report from such custodial official and
3 if the defaulting bank, capital stock financial institution, or
4 qualifying mutual financial institution is to be liquidated or
5 if for any other reason the qualified trustee determines that
6 public money or public funds are not likely to be promptly paid
7 upon demand, the qualified trustee shall proceed to enforce the
8 deposit guaranty bond or liquidate the pool of securities held to
9 secure the deposit of public money or public funds and shall repay
10 each custodial official for the public money or public funds not
11 insured or guaranteed by the Federal Deposit Insurance Corporation
12 or National Credit Union Administration deposited in the bank,
13 capital stock financial institution, or qualifying mutual financial
14 institution by the custodial official. In the event that the amount
15 of the deposit guaranty bond or the proceeds of the securities
16 held by the qualified trustee after liquidation is insufficient to
17 cover all public money or public funds not insured or guaranteed
18 by the Federal Deposit Insurance Corporation or National Credit
19 Union Administration for all custodial officials for whom the
20 qualified trustee serves, the qualified trustee shall pay out to
21 each custodial official available amounts pro rata in accordance
22 with the respective public money or public funds not insured or
23 guaranteed by the Federal Deposit Insurance Corporation or National
24 Credit Union Administration for each such custodial official.

25 (2) In the event that a federal deposit insurance agency

1 or National Credit Union Administration is appointed and acts as
2 a liquidator or receiver of any bank, capital stock financial
3 institution, or qualifying mutual financial institution under state
4 or federal law, those duties under this section that are specified
5 to be performed by the qualified trustee in the event of default
6 may be delegated to and performed by such federal deposit insurance
7 agency or National Credit Union Administration.

8 Sec. 33. Section 77-23,105, Reissue Revised Statutes of
9 Nebraska, is amended to read:

10 77-23,105 Upon request of a custodial official, a
11 bank, capital stock financial institution, or qualifying mutual
12 financial institution shall report as of the date of such request
13 the amount of public money or public funds deposited in such
14 bank, capital stock financial institution, or qualifying mutual
15 financial institution that is not insured or guaranteed by the
16 Federal Deposit Insurance Corporation or National Credit Union
17 Administration (1) by the custodial official making the request
18 and (2) by all other custodial officials and secured pursuant to
19 subsection (1) of section 77-2398, and the total value of the
20 deposit guaranty bond or the aggregate market value of the pool
21 of securities deposited, pledged, or in which a security interest
22 has been granted to secure public money or public funds held by
23 the bank, capital stock financial institution, or qualifying mutual
24 financial institution, including those deposited by the custodial
25 official. Upon request of a custodial official, a qualified trustee

1 shall report as of the date of such request the total value of the
2 deposit guaranty bond or the aggregate market value of the pool
3 of securities deposited, pledged, or in which a security interest
4 has been granted by the bank, capital stock financial institution,
5 or qualifying mutual financial institution and shall provide an
6 itemized list of the securities in the pool. Such reports shall be
7 made on or before the date the custodial official specifies.

8 Sec. 34. The Revisor of Statutes shall assign section 24
9 of this act to Chapter 77, article 23.

10 Sec. 35. Original sections 2-4214, 14-556, 15-847,
11 15-849, 16-713, 16-715, 16-716, 17-607, 17-720, 30-3209, 77-2305,
12 77-2318, 77-2326.04, 77-2340, 77-2344, 77-2345, 77-2352, 77-2355,
13 77-2362, 77-2375, 77-2385, 77-2388, 77-2389, 77-2395, 77-2398,
14 77-23,100, 77-23,101, 77-23,102, and 77-23,105, Reissue Revised
15 Statutes of Nebraska, and sections 77-2365.01, 77-2365.02,
16 and 77-2387, Revised Statutes Cumulative Supplement, 2008, are
17 repealed.

18 Sec. 36. Since an emergency exists, this act takes effect
19 when passed and approved according to law.